

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LESLIE JACK, individually and as Personal
Representative of PATRICK JACK; DAVID JACK,
Individually,

Plaintiffs,

v.

ASBESTOS CORPORATION LTD., et al.,

Defendants.

NO. 2:17-cv-00537 JLR

DEFENDANT DCo LLC (F/K/A DANA
COMPANIES LLC)'S MOTION TO EXCLUDE
PLAINTIFFS' EXPERT DR. CARL BRODKIN'S
CAUSATION TESTIMONY AND OPINIONS
AND JOINDER IN DEFENDANT
HONEYWELL INTERNATIONAL INC.'S
MOTION

NOTED ON MOTION CALENDAR:
Friday, August 3, 2018

Defendant DCo, LLC (f/k/a Dana Companies, LLC) moves to preclude Plaintiffs' expert Dr. Carl Brodtkin from presenting testimony at trial (1) that "identified exposures" above "de minimis" levels contributed to Decedent's mesothelioma, absent a scientifically based methodology for distinguishing between "de minimis" and "biologically significant" exposures; and (2) that exposure to asbestos purportedly originating from automotive gaskets contributed to Decedent's mesothelioma. In this regard, DCo adopts and incorporates herein to the extent applicable the facts, legal authorities, and analysis set forth in Honeywell's similar motion, Defendant Honeywell

DEFENDANT DCo'S MOTION TO EXCLUDE
PLAINTIFFS' EXPERT DR. CARL BRODKIN'S
CAUSATION TESTIMONY AND OPINIONS - 1 of 4
(2:17-cv-00537 JLR)
[4846-9853-5533]

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1 International Inc.'s Motion to Exclude Plaintiffs' Expert Dr. Carl Brodtkin's Causation
2 Testimony and Opinions (ECF 483).

3 Honeywell's Motion stems from Plaintiffs' allegations that exposure to brakes
4 manufactured by Honeywell predecessor The Bendix Corporation significantly contributed
5 to cause Decedent Patrick Jack's disease. With regard to DCo, Plaintiffs' allegations are
6 similar: That exposure to automotive gaskets manufactured by Victor Gasket
7 Manufacturing Company, for which products DCo is liable, significantly contributed to
8 cause Mr. Jack's disease. The analysis provided by Honeywell as to why the causation
9 opinions of Dr. Brodtkin based on supposed "identified exposures" is fully applicable to
10 the claims against DCo as well.
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12 DCo does not join in Honeywell's Motion to the extent it is particular to claims of
13 exposure to brake dust (in particular, Sections II.B., II.D.2, and III.A.2) because allegations
14 of brake dust exposure are not applicable to DCo. However, Honeywell's Motion and
15 analysis is equally applicable and relevant to Plaintiffs' claims that Mr. Jack's work with
16 Victor gaskets (a product for which DCo is liable) resulted in asbestos dust exposure. See
17 Second Amended Complaint (ECF 253) at ¶¶ 14, 46C. There is no basis for concluding
18 that such work increases the risk of developing mesothelioma. *See, e.g.*, Honeywell
19 Exhibit 4 (Expert Report of epidemiology expert Dominik Alexander at 19.).¹ ("In summary,
20 it is my opinion to a reasonable degree of epidemiologic certainty that motor vehicle
21 repair work, including brake, clutch *and automotive gasket work*, which may result in low-
22 level exposure to chrysotile asbestos fibers, is not associated with an increased risk of
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26 ¹ DCo and Honeywell both retained and disclosed the report of Dr. Alexander.

1 mesothelioma.” (Emphasis added.) The conclusion is the same from an industrial
2 hygiene standpoint:

3
4 Based on my review of the literature and my extensive
5 experience in the field, it is my opinion, based on a
6 reasonable degree of scientific certainty, that Mr. Jack’s
7 potential dose of chrysotile asbestos related to any work he
8 may have performed with and/or around asbestos-
containing gaskets was not a significant risk for developing
asbestos-related pleural mesothelioma. [Cites omitted.] No
scientific literature currently exists linking gasket work with
asbestos-related mesothelioma.”

9 Exhibit 1, Expert Report of DCo Industrial Hygiene expert Dr. Mary Finn (ECF 294-1), at
10 54.

11 For all the reasons stated in Honeywell’s motion, either generally or with particular
12 regard to brake dust, Dr. Brodtkin’s flawed analysis attempting to find an “identified
13 exposure” in automotive gaskets likewise fails. He should be precluded from offering
14 such opinions to the trier of fact in this matter.

15 Dated this 17th day of July, 2018.

16
17 GORDON THOMAS HONEYWELL LLP

18 By /s/ Michael E. Ricketts

19 Michael E. Ricketts, WSBA No. 9387
20 mricketts@gth-law.com
21 Attorneys for Defendant DCo LLC (f/k/a Dana
22 Companies LLC)
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CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

/s/ Karen L. Calkins

Karen L. Calkins, Legal Assistant
GORDON THOMAS HONEYWELL LLP